

Lin v. MetLife

07 civ. 3218

EXHIBIT B

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

JEAN LIN,)
)
)
 Plaintiff,)
)
 vs.) CASE NO.: 1:07-CV-03218 (RJH)
)
 METROPOLITAN LIFE)
 INSURANCE COMPANY,)
)
)
 Defendants.)
)

DEPOSITION OF : DR. SAM KAM
TAKEN BY : TOMASITA SHERER, ESQUIRE
Commencing : 8:47 A.M.
Location : 1051 PARK VIEW DRIVE
COVINA, CALIFORNIA 91723
Day, Date : TUESDAY, FEBRUARY 19, 2008
Reported by : MARGARET A. FORD, C.S.R. NO. 10530
Pursuant to : Notice
Original to : TOMASITA SHERER, ESQUIRE

Pages 1 - 103

Job No. 109648

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT

JEAN LIN,)
)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO.: 07-2190-B

JOHN HANCOCK LIFE)
INSURANCE COMPANY,)
)
)
Defendant.)
)

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BY: EDWARD S. ROONEY, JR., ESQ.

ALSO PRESENT: JEAN LIN

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EXHIBITS

DEFENDANT'S EXHIBIT NO.	DESCRIPTION	MARKED FOR IDENTIFICATION
A	DR. KAM'S CV	07
B	8/7/04 NOTES	11
C	AUGUST 13, 2004 LABS	11
D	ABDOMINAL ULTRASOUND	24
E	CUSTODIAN'S CERTIFICATION	70
F	LAB REPORT	72
G	DR. KAM'S CHART	83

INFORMATION REQUESTED

(None)

QUESTIONS NOT ANSWERED

(None)

1 himself.
 2 Q Okay.
 3 A On September 5, 1998, as is shown in my record.
 4 Q Okay. Let me go ahead and mark the next two as
 5 Exhibits B and C. Let me explain for the court reporter
 6 what Exhibit B is and what Exhibit C is. Exhibit B is
 7 MLLIN0092 through 105, and Exhibit C is MLLIN00106
 8 through 153.
 9 (Defendant's Exhibits B & C were
 10 marked for identification by the court
 11 reporter and are attached hereto.)
 12 Q BY MS. SHERER: I'll give them to you as well
 13 so that we're clear.
 14 MR. TRIEF: You started at what number? What's
 15 the beginning?
 16 MS. SHERER: 106.
 17 MS. SHERER: I've tried to separate the labs
 18 from the notes.
 19 MR. TRIEF: Got it. Do you need an extra copy?
 20 MR. ROONEY: If you have one.
 21 THE WITNESS: You have that probably.
 22 MS. SHERER: Let's look together.
 23 MR. TRIEF: Do you want us to look together?
 24 MR. ROONEY: That's good.
 25 Q BY MS. SHERER: I think the easiest way to do

1 MS. SHERER: That's what I'm asking.
 2 MR. TRIEF: Okay.
 3 Q BY MS. SHERER: Do you remember meeting with
 4 him the first time, or is it just the records?
 5 A I do not remember meeting with him the first
 6 time. This is 1998.
 7 Q Okay. Just asking.
 8 A Ten years ago.
 9 Q Just asking. Let's go to the lab that
 10 corresponds. It looks like in Exhibit C, going to the
 11 back, page 150, where does it begin?
 12 A 151.
 13 Q 151?
 14 A Okay. I think it's 149.
 15 Q Okay. So looking at Page 149 through 153, what
 16 I would like to know is, is if you could explain what
 17 results here, you know, what the results showed?
 18 A Okay. On 149, first row, there's a total
 19 bilirubin of 3.8, which is elevated. This is one of the
 20 liver tests, the testing of the liver. Then the next one
 21 would be SGOT 131, the normal was less than 45, so it's
 22 like almost three times elevated. And the next line is
 23 SGPT 197, normal was 44.
 24 So, again, it's four times elevated. Those are
 25 the liver tests. And, also, the next liver test is GGTP

1 76, normal was 48. So this liver tests are all elevated.
 2 If you elevate, if this test is elevated for more than
 3 six months, then by definition patient has chronic
 4 Hepatitis.
 5 Q Okay.
 6 A We don't have that data.
 7 Q At this point, would you agree that the test
 8 results were abnormal?
 9 A Yes.
 10 Q And turning to Page 150, I see what's circled
 11 is positive next to Hepatitis B Surface Antigen?
 12 A Yes.
 13 Q And positive next to Hepatitis B?
 14 A E Antigen Positive, both are positive. And the
 15 rest are negative, the rest of the tests.
 16 Q Okay. Now, so at this point, what was your
 17 advice to Mr. Lin as to what to do with this?
 18 A Patient had, at this point, I mean, from the
 19 blood test, you know, patient has an E Positive Hepatitis
 20 B, E Positive, okay? There are two type of Hepatitis B,
 21 E Positive, E Negative, okay? There are different
 22 mutants, okay? There are many, many types, okay, more
 23 than two. But we usually classify them between
 24 E Positive and E Negative.
 25 Actually, he has E Positive Hepatitis B with

1 two ways -- let me back up.
 2 There are two ways to look at whether the
 3 patient has liver cirrhosis, okay, from the blood test.
 4 We have other ways, but from the initial screening there
 5 are two ways. The most sensitive way the of looking at
 6 cirrhosis is the platelet count, which is 149.
 7 Q Platelet count?
 8 A Yes, platelet 149. On the one, two, three, on
 9 the third line on the right-hand side.
 10 Q Okay.
 11 A Platelet count, the normal is 150, higher than
 12 150, patient is at 194. Now, if you go down to 150 then
 13 you have early cirrhosis. If you go down to one hundred
 14 you have morbid cirrhosis. If you go down to fifty you
 15 have severe cirrhosis. This is the most sensitive
 16 indication of cirrhosis. That's one number that you look
 17 at. The other number looked at the performing time, the
 18 PT, okay, for cirrhosis. But this is not too sensitive,
 19 as sensitive as the platelet count.
 20 So even this is elevated, at that time, I don't
 21 think it's morbid cirrhosis because of the platelet
 22 count. So that was abnormal lab. Then the second page,
 23 147, he has Hepatitis B DNA quantitative. The result was
 24 abnormal. It was elevated 651 picograms per millimeter,
 25 okay?

Page 24

1 to be -- I have an Exhibit D, which is going to be the
2 two ultrasounds together, page 154 and 155, which I'll
3 write here for you (indicating). It's the one behind
4 that. But it looks like the next thing that happens
5 chronologically is another visit with you on September
6 29, 1998.

7 A Yes.

8 (Defendant's Exhibit D was marked for
9 identification by the court reporter
10 and is attached hereto.)

11 Q BY MS. SHERER: During that visit, did you
12 discuss with him the results that we just went over?

13 A Yes.

14 Q And on page 103, could you tell us what your
15 notes of that visit say?

16 A Okay. On September 19, 1998, he had a followup
17 visit. I discussed with him -- okay, the first note what
18 I wrote Hepatitis B Virus, DNA 661 picogram per CC,
19 platelet count 194, okay? So it's high. It's not low.
20 It's similar to the previous. It's similar to the
21 previous test. Albumin 4.8. PT performed in time,
22 performed in time 14. Impression: Chronic liver
23 disease, Hepatitis B Virus infection, active.
24 Recommendation: Ultrasound of the abdomen number one;
25 number two, Alpha-interferon, ten million units -- ten

Page 25

1 million every -- three times a week, okay?

2 Q So three injections a week?

3 A Three times, correct, yeah. Then number three
4 is appointment with Carrie, my nurse. She will teach him
5 how to do the shot, injection.

6 Q Where would he inject the shot? What part of
7 his body?

8 A You can inject anywhere on the abdomen, on the
9 thigh, on the arm, anywhere, subcutaneous injection.

10 Q Okay. Let's see. It does look like the next
11 thing that occurs is the ultrasound on October 2, 1998.
12 It's page 155.

13 A Which was normal.

14 Q And it shows that it was normal?

15 A Yes.

16 Q You next met with Mr. Lin on October 3, 1998,
17 Page 102?

18 A Uh-huh.

19 Q It looks like you instructed him --

20 A That was not my handwriting. That was my
21 nurse's handwriting. He came in and get an instruction
22 for self-injection.

23 Q Okay. And on October 8, 1998, that looks like
24 someone else's handwriting also.

25 A Our office clerk mailed the abdominal

Page 26

1 ultrasound result to the patient.

2 Q And on October 24, 1998?

3 A He had Alpha-Interferon for three weeks, and he
4 came back for followup. There was no complaint.

5 Q And it looks like someone wrote October 3,
6 '98 --

7 A I wrote that.

8 Q -- on the side there. That's to say that he
9 began Interferon on that date?

10 A He start Interferon October 3, '98, ten million
11 units, three times a week.

12 Q And then it looks like it says HBV, Hepatitis B
13 Virus?

14 A That was my impression of that, Hepatitis B
15 Virus infection, patient on Interferon. And
16 recommendation is to check the blood test, complete blood
17 count, liver function test, Hepatitis B Virus, E Antigen,
18 and then I also recommend to come back to clinic in three
19 weeks.

20 Q Okay. Back to Exhibit C, let's take a look at
21 the blood test from October 24. It looks like that's
22 Pages 144 and 145.

23 A Yes.

24 Q What were the results that day?

25 A The result on Page 144, the liver function

Page 35

1 Q Okay. So, at this point, you wanted him to
2 stop the Interferon?

3 A Yes.

4 Q On February 6, 1999, you asked him to stop the
5 Interferon?

6 A Yes. Because at this point, I'm convinced
7 he's, after repeated tests of E Antigen and Hepatitis B
8 Virus, DNA and liver function tests went back to normal,
9 I was convinced he now change from active to inactive
10 state.

11 Q Okay. But you did say he had chronic liver
12 disease; is that what you said?

13 A Chronic liver disease.

14 Q Okay. Now, let's go to the lab tests that he
15 took that day.

16 A Chronic liver disease, the definition is if you
17 have the virus you have chronic liver disease.

18 Q Did he still have the virus, at this time?

19 A That would tell you when on the next visit.

20 Q Okay. So let's go to Exhibit C, Page 138 and
21 139. It looks like those -- I'm not sure if Page 139
22 goes with 138. Can you tell me if it does? The dates --
23 oh, no, I see. I see.

24 A That was 2/12/99, I think it's the same because
25 I order E Antigen, I send out to the specialty and other

1 from positive to negative to positive. We checked
2 Hepatitis B Virus, DNA ultra-quantitative and mailed to
3 patient.

4 Q Okay.

5 A You have the 2/28/03.

6 Q Let's see here.

7 A 2/19.

8 Q I see a 2/19 test on Page 116.

9 A Yes.

10 Q And what is that showing?

11 A Okay. On 116 and 117 are the same, okay?

12 There was the B -- the DNA was still .020 picogram,
13 slightly elevated. If you look at the DNA as a copy per
14 CC, it's five thousand six -- 5660, the normal is less
15 than 4700, slightly elevated.

16 Q Is that an abnormal result?

17 A That means abnormal. But that's not --
18 necessarily means anything to me, at this point, because
19 you're checking the Hepatitis B Virus, which is not pico
20 mode, which is very, very small one per million, and for
21 this DNA testing, those are polymerized testing, slightly
22 high. I would -- I wouldn't -- I mean, this -- this
23 number is -- can be a lab error.

24 Q It could be a lab error?

25 A It could be a lab error. I don't see too much

1 activation, has abnormal liver tests, the infection is
2 ongoing, the destruction process is ongoing. Those we
3 call not healthy carrier.

4 Then the healthy carrier, the virus is
5 inactive, it doesn't destroy the liver cell, the sitting
6 duck there doing nothing. Those patients may have, I
7 mean, E Positive or E Negative, they can have either one.
8 Then there carrier which has a little bit of activity,
9 very slight, I mean, that is maybe measurable, maybe not
10 measurable. So when you say carrier, there's different
11 kinds of carriers.

12 Q Does the age of the patient factor into your
13 analysis? Does his age make a difference to you?

14 A Yes. The age make a difference for me.

15 Because if you are, say, I mean, if you are younger, I
16 tend to be more aggressive in treatment. If you are
17 older, I have to look at you, I mean, if you are sixty
18 years old, you already have Hepatitis B for thirty years,
19 you know that, and then I look at you, you still doesn't
20 have cirrhosis, all Hepatitis, the final outcome is
21 cirrhosis. We don't want cirrhosis.

22 It doesn't matter what Hepatitis. Cirrhosis
23 came from the process of continued destruction of the
24 liver cell. After you destroy the liver cell, then the
25 liver put down, the liver, generally scar tissue, like

1 The liver function test does not tell me that,
2 so you have to look at the whole thing. It's not
3 impressive to me.

4 Q But, at this time, did it go from inactive to
5 active?

6 A I don't think so.

7 Q No? You would still call this inactive?

8 A I still think it's inactive, unless there is a
9 trend that things are going up --

10 Q Okay.

11 A -- in the future.

12 Q And again, at this point, you still, at all
13 times, you would still --

14 A I would consider him as inactive. The fact
15 that I did not start treatment on him, to my thinking, is
16 that because there are, after all these ten years, okay,
17 the treatment of Hepatitis B has evolved from Interferon
18 to oral pill, where many, three or four different oral
19 pills taken to suppress the virus, if I consider him as
20 active activation, I will start the pill.

21 Q Okay. Now, at this time, at all times before
22 this, he was a Hepatitis B Virus carrier?

23 A He is a carrier. There are different kinds of
24 carriers, some people are healthy carrier, some say not
25 healthy carrier, which are the ones that carrier with

1 need the vaccine. On 107, the liver tests are normal
2 except the bilirubin. That's what we checked on 8/7,
3 okay?

4 Q I did skip over one ultrasound. We can go to
5 that now. This is Exhibit D on March 27, 2004.

6 A It was normal.

7 Q And on that March 27, 2004 ultrasound, under
8 clinical history, you indicated Chronic Hepatitis B,
9 correct?

10 A Not me, the radiologist.

11 Q Do you agree with that?

12 A As long as you carry the virus, Hepatitis B
13 Virus, we call you chronic Hepatitis. It deal with the
14 definition. You carry the Hepatitis B Virus because it
15 always Surface Antigen Positive, so we call that chronic
16 Hepatitis.

17 Q Just a few more records I want to go over
18 before we get to your chart.

19 A How come we don't have the record?

20 Q Say that again?

21 A How come we did not have the record, 2005?

22 Q That's what I'm coming to now. I think it just
23 got out of order in my file.

24 A Okay.

25 Q This is December '05.

1 generate antibodies. Impression: Hepatitis B Virus,
2 patient switching from E Positive to E Negative without
3 producing E Antibody.

4 Q What does that mean?

5 A Okay. Again, that you have go back to what
6 Hepatitis B carrier is, as I told you the different kind
7 of Hepatitis B carrier, okay? You can have a Hepatitis E
8 positive carrier or E negative carrier, or the E negative
9 carrier, you can have the one which has an E antibody
10 positive or E antibody negative, okay? I mean, the
11 different kind, and everyone of those carrier can have
12 normal liver test, can have normal DNA.

13 So I'm trying to classify him as which kind of
14 carrier he has. He's a carrier of E Negative, okay? I
15 don't know about the E Positive, okay? I would classify
16 him as E Negative and normal DNA, normal liver tests, and
17 E Antibody Negative carrier.

18 What does E Antibody Negative mean? It means
19 that this person doesn't generate an antibody against
20 E Antigen. That means this guy can flip back to E
21 easier, more easier than the one with an E Antibody
22 Positive.

23 Q So is that more concerning to you or less
24 concerning or not a concern at all?

25 A It is more -- I mean, it doesn't matter they

1 have E Positive, E Negative, E Antibody Positive or E
2 Negative, they have to go through the same followup every
3 six months, okay? Now, I mean, what I'm talking about is
4 the possibility that the one with E Antibody Positive has
5 less chance of flipping back to E Antigen Positive,
6 compared to the one E Antibody Negative has a little bit
7 higher chance than flipping back to E antigen positive.

8 Q And that was the case for Mr. Lin?

9 A This is the case, okay?

10 Q Okay.

11 A Now, we are talking about possibility here. We
12 don't know, okay? Even it flip back to E Antigen
13 positive it does not mean that he is activate, okay? I
14 mean, as long as his liver test is normal, as long as his
15 DNA is normal, he's still in an inactive state, okay?

16 Q How does his age factor into this analysis to
17 you?

18 A At this point, his age, okay, he doesn't
19 require treatment at this point, okay? Because I
20 consider him as an inactive stage. For those people, we
21 just monitor them, I mean, every six months, sometimes
22 every three months, it depend on who you talk to, okay?
23 My way is every six months to see if there's any chance
24 of an activation in the future, okay? Whether this
25 person will be activated in the future or stay inactive

1 for the rest of his life, we don't know. No idea.

2 Q Okay.

3 A And we just keep monitoring him.

4 Q Now, we were looking at Page 555, and we were
5 talking about the entry where you wrote patient switches
6 from E positive to negative and back again --

7 A Uh-huh.

8 Q -- without producing?

9 A Producing E Antibody.

10 Q Okay. Under that, your recommendation?

11 A Ultrasound of abdomen, Alpha-Fetoprotein, liver
12 function test, CBC, and platelet.

13 Q And on the left side it says?

14 MR. ROONEY: That should be redacted because
15 that should not be in his original copy. Somebody at
16 John Hancock wrote that.

17 THE WITNESS: It's not usable?

18 MR. ROONEY: Look at your original, if you have
19 your original copy it shouldn't be on there.

20 THE WITNESS: I don't have that in here.

21 MS. SHERER: Okay.

22 THE WITNESS: Someone wrote that in here. I
23 don't have that in my original copy.

24 Q BY MS. SHERER: Okay. We'll redact that. Now
25 the lab test that goes after this is in Exhibit F, Page

1 572, JH572. What does that show?

2 A Well, that tells you that all the liver
3 function tests are normal, except the total bilirubin.

4 Q What about the platelet?

5 A There's no -- the platelet is 262, normal.

6 Q I think I'm looking at the 7.0 L.

7 A That has nothing to do with all this.

8 Q Okay.

9 A So to me, this tells me that the patient still
10 inactive.

11 Q Inactive?

12 A Yes, in a carrier state.

13 Q Okay. Backing up a page -- on Exhibit E,
14 JH554, the next visit looks like November 29, 2005.

15 A Okay. Hepatitis Surface Antigen, it was
16 positive, with E Antigen positive and negative,
17 Alpha-Fetoprotein normal, liver function test normal,
18 ultrasound, patient did not do it.

19 Q Now, right above that you indicated positive to
20 negative to positive again?

21 A Yes.

22 Q Right?

23 A That's the writing that I have been using back
24 and forth. But why it's positive, was it due to a flip
25 back or lab error? No idea.

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1 Q Okay.
 2 A Okay? I mean, I just reporting the lab
 3 findings that I had.
 4 Q Okay. I'm sorry. At that point, liver
 5 function --
 6 A Test normal, ultrasound patient did not do.
 7 Q Okay. And under two?
 8 A Now he complain of hunger, discomfort, thirty
 9 minutes to sixty minutes duration. It was a postprandial
 10 discomfort, means after he eat he feels the discomfort,
 11 and he had this two to three weeks. He took Prevacid
 12 P-R-E-V-A-C-I-D.
 13 Q Prevacid.
 14 (Interruption in proceedings.)
 15 Q BY MS. SHERER: We were at JH554 where it says,
 16 "Took Prevacid."
 17 A Prevacid for two weeks without effectiveness.
 18 He also complained of bloating. He has no nausea and
 19 vomiting. His bloating was not decreased by passing gas
 20 from below, by flatus, or by defecation or by bowel
 21 movement. The duration of bloating was thirty minutes,
 22 plus or minus decrease by a meal, may be or may not be.
 23 He was not clear. He was more constipated lately. He
 24 lost four to five pounds.
 25 Q And then underneath?

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1 A Physical examination: The abdomen, he has mild
 2 epigastric tenderness. I did not feel a mass, no mass,
 3 rectal examination, he was OB negative, occult blood
 4 negative.
 5 Q And recommendation?
 6 A Impression: Number one, called epigastric
 7 pain, pain after eating; number two, weight loss, four to
 8 five pounds; number three, Hepatitis B Virus infection.
 9 Recommendation: Number one, CBC, SMA 27, UA, urinalysis,
 10 PSA, emulate, litate; number two, EGD, that's upper
 11 endoscopy, upper endoscopy.
 12 Q What was the E for?
 13 A EGD. EGD is esophagogastroduodenoscopy. Don't
 14 worry about that, upper endoscopy.
 15 Q Okay. And the third one?
 16 A The third one is CAT scan of the abdomen with
 17 IV contrast.
 18 Q Okay.
 19 A One hundred sixteen pounds.
 20 Q One hundred sixteen pounds is what he weighed?
 21 A Yes.
 22 Q How tall was he? Did we have that?
 23 A We have to look back in the previous data that
 24 we have.
 25 Q It's probably in here.

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1 A I may not have a height, okay? Because, I
 2 mean, if I recall he was about the same height as me or
 3 maybe a little shorter. I don't recall.
 4 Q How tall are you?
 5 A Five-eight.
 6 Q Okay.
 7 A That's why I don't know. We don't have a
 8 record.
 9 Q Okay. Then if you look at Exhibit F, Page 570,
 10 571, it looks like those are the test results.
 11 A 571.
 12 Q And 570, from the November 29th --
 13 A Okay.
 14 Q What do we see here?
 15 A The liver test was normal, the total bilirubin
 16 was 1.9, cholesterol and triglyceride was a little high,
 17 but was minimally high, and the rest of the blood tests
 18 were normal.
 19 Q Okay. Now, it looks like the next thing
 20 chronologically that occurs is what I've marked as
 21 Exhibit G, which is a December 16, 2005 visit. And that
 22 is Bates stamped MLLIN252 through 256.
 23 Does everybody have it?
 24 Is this your handwriting?
 25 A No.

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1 Q Is this a visit with you?
 2 A No.
 3 MR. TRIEF: This has Dr. Huang on top of it.
 4 There's a stamp. See Dr. Huang?
 5 MS. SHERER: I see that there. Thank you.
 6 This one I thought I saw your name on here.
 7 MR. TRIEF: These are all from Dr. Huang.
 8 MR. ROONEY: What's the date on that?
 9 MS. SHERER: This is out of place.
 10 MR. ROONEY: These tests could have been
 11 ordered.
 12 MS. SHERER: Page 255, did that come to you?
 13 THE WITNESS: No.
 14 Q BY MS. SHERER: Okay. I got confused there --
 15 maybe we should --
 16 A Those have nothing to do with me.
 17 Q Maybe we should nix this one. So the next one,
 18 the next visit is then December 17, 2005, which is JH553
 19 on Exhibit E.
 20 A Uh-huh.
 21 Q And what occurred there?
 22 A December 17, 2005, that was the record of upper
 23 endoscopy EGD, with biopsy. Then the next -- the
 24 medicine that we gave, we gave to the patient before the
 25 procedure, which included Versed V-E-R-S-E-D, one

1 milligram, IV push, Demerol D-E-M-E-R-O-L, fifty
2 milligram, IV push, Valium V-A-L-I-U-M, ten milligram,
3 IV push.

4 Q And then it looks like it says --

5 A Then the result was a polypoid mass, extending
6 from distal stomach to antrum, the lumen of this area
7 narrowed to one-third, and I took prebiopsy of it.

8 Impression: Antral mass, A-N-T-R-A-L mass, likely
9 cancer, CT abdomen was normal without metastasis.

10 Recommendation: Number one, surgery; number two, chest
11 X-ray, PA and lateral; number three, Prilosec.

12 Q Prilosec?

13 A Yes. P-R-I-L-O-S-E-C over the counter, OTC.

14 Q Okay. And then on December 29, '05, it says,
15 "Patient's information given to Dr. --"

16 A Imagawa I-M-A-G-A-W-A.

17 Q Did you refer him to Dr. Imagawa?

18 A Yes, I refer him to Dr. Imagawa, UCI Medical
19 Center, for surgery.

20 Q Was this the last time, Dr. Kam, you saw him?

21 A I saw him.

22 Q It looks like the rest of the file --

23 A There's only one page that came from me, 552,
24 that was the pathology of the biopsy of the stomach.

25 Poorly differentiating infiltrating carcinoma of stomach,

1 that means cancer.

2 Q Okay. On Page 542, JH542 through 551, it looks
3 like the first page is the custodian certification of
4 your records.

5 A I don't know. I don't even look at that.

6 Q Did that come from your office?

7 A Yes. That came from my office. My manager
8 Brenda Lieu signed it.

9 Q Okay. And then it looks like it includes some
10 correspondence from MetLife, an authorization to obtain
11 his medical records.

12 A I think that came with the check.

13 Q And a record from Dr. Warren Fong, was that in
14 your file?

15 A Dr. Warren Fong?

16 Q Oncology.

17 A Is it in my file? I don't even recall. Yeah.

18 Okay. It was in my file.

19 Q Just so we can be complete, that's the rest,
20 okay. Next I'd like us to take a look at what I've
21 marked as Exhibit G, which is the chart you prepared.

22 (Defendant's Exhibit G was marked for
23 identification by the court reporter
24 and is attached hereto.)

25 ///.

1 THE WITNESS: These are not different from what
2 you had went through already. This is just a summary of
3 everything, all the lab tests that over that many years
4 that helped me to, I mean, focus my attention, make my
5 judgment. I mean, see what's going on, what is the flow
6 of the blood test going on.

7 Q BY MS. SHERER: I noticed in the center it
8 says, "1/26/08, Mr. Trief, Eric," right in the center on
9 the top there.

10 A Yeah.

11 Q Why does it say that there?

12 A Because Mr. Trief, Eric called me at that
13 point.

14 Q Did they ask you to prepare this?

15 A They asked me to subpoena. They talk about
16 subpoena. And then they talk about that they are the
17 lawyer representing the other party.

18 Q What else -- well, who did you speak with,
19 Mr. Trief, Eric or both of them? Maybe it would help if
20 I pointed them out. This is Mr. Trief and this is Eric
21 (indicating). Do you know which one you spoke to?

22 MR. TRIEF: He wouldn't recognize us. I'm
23 happy to help you.

24 MS. SHERER: Your voices are distinct.

25 MR. TRIEF: I'm happy to help you. I'll

1 continue to talk.

2 Q BY MS. SHERER: One of them? You spoke to one
3 of them?

4 A Yes.

5 Q And that was January 26?

6 A On a Saturday morning, something like that.

7 Q Okay. How long did you speak with them on the
8 phone?

9 A Five, ten minutes.

10 Q Okay. What did Mr. Trief or Eric ask you to
11 do?

12 MR. TRIEF: Objection.

13 But you can testify.

14 Q BY MS. SHERER: I would like to know the
15 substance of the conversation.

16 A Okay. The substance of the conversation is
17 that they told me about the lawsuit that they are
18 fighting, okay? I mean, they represent the patient,
19 okay? I think that's it.

20 Q What did they tell you about the lawsuit?

21 A They told me about the lawsuit, about, I mean,
22 that, I mean, MetLife is not trying to pay. That's it.

23 Q Did they ask you to testify today in a certain
24 way?

25 A Yeah. They asked me to testify. And I said I

1 want money. And they said, well, it's hard because the
2 patient doesn't pay them or whatever.

3 MR. TRIEF: Note my objection to this.

4 I mean --

5 Q BY MS. SHERER: I didn't hear what you said?

6 A The patient doesn't have money to pay them and
7 da, da, da, okay? So, I mean, I didn't get anything.

8 Q What else did they tell you about the case?

9 A What else they told me about the case? They
10 told me that MetLife trying to deny the claim.

11 Q Did they tell you why?

12 A Not exactly. I mean, they didn't tell me why.
13 They said, okay. I said, well, this is clear, I mean, in
14 my opinion it's clear, the patient die of stomach cancer.
15 I thought, why the hell they deny the claim? I don't
16 understand.

17 Q Okay.

18 A Very straightforward case. I don't know why I
19 am being subpoenaed.

20 MR. TRIEF: So stipulated to straightforward.

21 MR. ROONEY: Move to strike.

22 Q BY MS. SHERER: You're being subpoenaed as a
23 fact witness.

24 A It doesn't matter. That's the legal term, but
25 I know I'm here.

1 MR. TRIEF: I'll object to that because I'm not
2 sure why he's here. There are opinion questions you've
3 asked him.

4 Q BY MS. SHERER: Okay. So were you asked to
5 create this chart?

6 A No.

7 Q You created it on your own?

8 A I create it on my own.

9 Q Okay.

10 A Because that helped me to get all of the flow
11 here, I mean, everything, I mean, all of the blood, I put
12 all the blood tests in there.

13 Q Okay. I know we went over them individually,
14 but is there -- can you explain, you know, how to read
15 this?

16 A It's the same, just put all the blood tests
17 with the numbering in there so I can look at it, I mean,
18 and compare it easier.

19 MR. TRIEF: The year is on the top, Counselor.
20 It has the year and date underneath each year and the
21 test results, so it's copied right from his chart.

22 Q BY MS. SHERER: Well, I guess I would like to
23 direct your attention to the second to last line, is that
24 Hepatitis B, E Antigen results?

25 A The last -- the second last is Hepatitis B, E

1 Antigen, the last line was Hepatitis B DNA copies per CC.

2 Q Okay. And then I guess it's the third one to
3 the bottom then, the E Antigen one that's showing it went
4 from positive to negative?

5 A Yes. Positive to negative, negative.

6 Q And then positive again?

7 A Positive, negative.

8 Q On June 17, 2000?

9 A Right.

10 Q And so on and so forth. Okay.

11 A Negative, positive, negative, positive. You'll

12 see that there's a whole bunch of positive, negative,
13 some positive here, and then you correlate with the DNA,
14 I mean....

15 Q Okay. We've gone through all of the test
16 results and all of your notes. I thank you for being so
17 patient to go through all of that. My question for you
18 is, as you sit here today, do you disagree with any of
19 the records as we've gone over them?

20 A Disagree in terms of what?

21 MR. TRIEF: Objection.

22 Q BY MS. SHERER: In other words, do you agree
23 that the results are as we discussed or do you believe --

24 MR. TRIEF: Objection.

25 Q BY MS. SHERER: -- there's an error in the

1 results we've discussed?

2 MR. TRIEF: Objection.

3 THE WITNESS: Okay. I agree with whatever
4 written here (indicating).

5 Q BY MS. SHERER: Okay. Did Mr. Lin have chronic
6 Hepatitis B?

7 A It depend on how you define chronic Hepatitis
8 B, okay? If your definition of Mr. Lin has a positive
9 surface antigen, and then you classify that as chronic
10 Hepatitis B, yes.

11 Q Would you classify him as having chronic
12 Hepatitis B?

13 A I will. My definition is what anyone with
14 surface antigen positive is chronic Hepatitis B.

15 Q Would you agree with the statement that whether
16 Mr. Lin tested active or inactive he still had Hepatitis
17 B Virus?

18 A The only statement I would agree to is Mr. Lin
19 has, after treatment by Interferon in 1998, his Hepatitis
20 B changed from an active stage into an inactive stage.

21 Q And he was still a Hepatitis B --

22 A He is still a Hepatitis B carrier.

23 Q Does at that mean he still had the virus?

24 A He still has the virus.

25 Q Was the virus cleared from his system?

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1 A The virus was cleared from the blood, but was
2 still sitting in the liver cell.

3 Q Did you ever inform Ms. Lin that the virus had
4 cleared from his system?

5 A Okay. You are asking something which go back
6 to 1998, ten years ago, okay? Ten years ago, no one can
7 tell you what they talk about, okay? This is
8 unreasonable, I mean, question that you asked me. Did I
9 tell him something, I mean, that happened ten years ago.
10 But, as a doctor, when I treat the patient, after
11 treatment, the patient will naturally ask you, what
12 happened to my treatment, all right?

13 Everybody will ask questions. What will the
14 doctor say? I have to tell them the result of the
15 treatment, okay? What is the result of the treatment
16 that I would tell my patient under this situation is
17 that, okay, your Hepatitis B now is cured. Usually I
18 don't go into E Positive or E Negative, patient never
19 understand, okay?

20 So it's very simple. Your Hepatitis B now is
21 cured, it's inactive. You still have the virus, okay,
22 it's not active but you need to be followed up every
23 three to six months. It may activate in the future.
24 That's --

25 Q Is that what you told Mr. Lin?

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1 A I'm pretty sure, I would be 99 percent sure
2 that's what I'm telling my patient.

3 Q And do you recall when you said that?

4 A That is after -- if I say it it will be after I
5 knock off the E Antigen, okay? When the blood tests come
6 back, I will tell the patient, okay, I mean, your
7 Hepatitis virus now become inactive, okay? You do not
8 need any further treatment. Because I have to tell
9 patient why I have to stop the treatment, okay? I mean,
10 you don't need anymore treatment. It's inactive now.
11 But you still carry the virus. It might -- it maybe
12 activate in the future, and you have to come back and see
13 me.

14 Q And the entire time Mr. Lin was seen by you he
15 carried the virus, correct?

16 A Yes.

17 MS. SHERER: I have no more questions. Thank
18 you very much.

19 EXAMINATION

20 Q BY MR. ROONEY: Let me followup. Doctor, my
21 name is Ed Rooney. I represent John Hancock Life
22 Insurance Company, and I have a few followup questions.
23 First of all, thank you very much for your time and your
24 patience in going through your notes. You were just
25 describing what you would have told Mr. Lin, that you

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1 were 99 percent sure of that.

2 With respect to bringing you to 2005, would his
3 treatment -- not his treatment, but his monitoring have
4 continued into 2006, and, therefore, forward, of course
5 having not passed away, would you have continued to have
6 monitored him?

7 A I would continue to monitor. For this kind of
8 patient, we monitor them for life.

9 Q You said earlier, and I think you've said
10 throughout here, what you're monitoring for is to see if
11 there's any cirrhosis of the liver, that's what you're
12 looking for, correct?

13 A You don't need to monitor cirrhosis of the
14 liver if the patient's state is in inactive stage. What
15 you're monitoring is whether this is going to reactivate.

16 Q And if it reactivates?

17 A Then you start treatment.

18 Q And the treatment is designed to prevent --

19 A Activation.

20 Q -- activation and, ultimately, scarring of the
21 liver?

22 A The treatment that we have in 2005, if the
23 patient become reactivate in 2005 or in the future, we
24 have oral medicine that we know will be effective in
25 suppressing the virus from an active back into inactive

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1 stage.

2 Q I think I understand that. What I'm trying to
3 find out is what's the ultimate danger you're treating
4 him for, cirrhosis of the liver?

5 A Ultimate danger?

6 Q Yes. Why are you continuing to treat him?
7 What is the danger to his health?

8 A To prevent activation and prevent cirrhosis.

9 Q Okay. Is there also a danger of carcinoma of
10 the liver as a result of the Hepatitis B Virus?

11 A As a result of the Hepatitis B Virus infection,
12 there is a slightly higher chance of carcinoma of the
13 liver, okay, in compared to the regular population
14 without the Hepatitis B Surface Antigen Positive.

15 Q Did you ever -- do you remember Bang Lin? Do
16 you remember what he looks like?

17 A Hard to describe him. He looks like he's
18 skinny, okay?

19 Q I know you have a lot of patients. I'm just
20 curious having treated him for eight years.

21 A He's young. He's skinny, okay? He's my height
22 or a little shorter than me, skin color was a little
23 dark.

24 Q And you've gone through all of your visits with
25 him, could you describe for me what happens when he would

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1 Q Did you consider the treatment for Mr. Lin
2 successful?

3 A Yes.

4 Q Did you advise him that he was successfully
5 treated?

6 A Yes.

7 Q And I heard earlier you said you told him he
8 was cured?

9 A That's usually the word I use. I usually say
10 you are cured, but the virus is still in your body, which
11 is not active. You don't require any treatment but you
12 need followup for possible reactivation.

13 Q And that's what you would have said to him, he
14 was cured, the virus needed to be followed over your
15 lifetime?

16 A True.

17 Q And did all of the blood tests and lab results
18 and your observations confirm exactly what you said to
19 Mr. Lin, that he was successfully treated, cured and
20 needed followup?

21 A Yes. The fact that I did not start oral
22 medication treatment proved that, I believe that what I
23 did.

24 Q I think earlier you indicated that you -- well,
25 let me just say. The stomach cancer has nothing to do

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1 with the Hepatitis B, correct?

2 A I don't. Of course it's nothing to do with it.
3 And I don't understand what's going on with you guys
4 okay?

5 MR. TRIEF: Any questions?

6 MR. ROONEY: Move to strike the second part.

7 THE WITNESS: I don't know why you guys are
8 picking on Hepatitis B instead of stomach cancer.

9 MR. ROONEY: He can give his medical opinion,
10 but the second part I move to strike.

11 MR. TRIEF: I move to repeat.

12 MS. SHERER: There's obviously more going on
13 than you're aware of.

14 MR. ROONEY: Is he going to qualify as a legal
15 expert?

16 THE WITNESS: That's not my -- I mean.

17 MR. TRIEF: I'm done. Are we done?

18 MR. ROONEY: We're done.

19 MS. SHERER: Yes.

20 MR. TRIEF: Thank you very, very much.

21

22 (The deposition proceedings
23 were concluded at 11:47 A.M.)
24
25